

Cabinet Secretary for Rural Affairs, Land Reform and Islands submission of 1 June 2023

PE1812/CCC: Protect Scotland's remaining ancient, native and semi-native woodlands and woodland floors

Thank you for your letter of 8 December 2022 to the then Minister for Environment and Land Reform, Máiri McAllan MSP, regarding petition PE1812. Please accept my apologies that you did not receive a reply at the time. It appears that, due to an administrative error, your original letter was not passed on to the appropriate team in the Scottish Government for consideration. As Ms McAllan has now moved to a different Ministerial portfolio, your letter has been passed to me to respond.

Ancient woodlands are hugely valuable to Scotland due to their rich biodiversity and cultural significance, and as they cannot be replaced, any loss should always be avoided wherever possible.

There are already a number of measures in place to protect ancient woodland, including through the recently approved fourth National Planning Framework (NPF4). NPF4 Policy 6 which strengthens protections for ancient woodlands and ancient and veteran trees. The Policy states that development proposals will not be supported where they will result in any loss of ancient woodlands, ancient and veteran trees, or adverse impact on their ecological condition. This reflects and builds on the Scottish Government's overarching policy on woodland removal, currently known as the Control of Woodland Removal Policy (CWRP), which already sets out a strong presumption against any removal of priority woodland types, including ancient, semi-natural woodland and woodlands with a significant biodiversity interest.

Protection for all woodland is in place via felling regulations under the Forestry and Land Management (Scotland) Act 2018. This will only be granted if it complies with the principles of sustainable forest management, as set out in the UK Forestry Standard (UKFS). The standard expects any management activity to protect semi-natural

features, with particular attention given to ancient semi-natural woodlands.

Scottish Forestry has already removed native woodland (which would include ancient woodland in this case) from the personal use exemption (5m³/quarter, where no permission is needed), in order to prevent gradual erosion of small native woodlands. Where permission is required, it is only in exceptional circumstances that a felling permission would be granted for an ancient woodland of any size. Where deforestation is proposed (e.g. for development), the Control of Woodland Removal Policy (CWRP) only permits removal of existing woodland where it would achieve significant and clearly defined additional public benefits.

Scottish Forestry Conservancies have worked with local planning authorities since the implementation of the Control of Woodland Removal Policy to help LPAs understand the value of our native and ancient woodlands and ensure minimal loss of such habitat.

When Scottish Forestry receive a report of suspected unauthorised felling, investigations, including site visits and evidence gathering is then carried out. In the last three years, since the Forestry (Exemption)(Scotland) Regulations 2019 came into force, 75% of cases reported were found upon investigation to be exempt from the requirement for felling permission.

When investigations conclude that it is likely that unauthorised felling has occurred, Scottish Ministers have a range of powers available to achieve a positive outcome. The priority is normally to secure the replanting of the site and protection of the woodland. The most appropriate action is often to issue a restocking notice to secure the replanting of the site.

Prosecution is considered in each case where unauthorised felling has taken place. Where replanting has been secured and the woodland has been protected it is often not in the public interest to pursue a prosecution. A range of factors, such as the seriousness of the impact, and whether there are any aggravating or mitigating circumstances, are taken into account when considering whether to pursue a prosecution. The final decision on whether to pursue a case to prosecution lies with the Procurator Fiscal rather than Scottish Ministers.

Prior to April 2019, when the Forest and Land Management Scotland Act 2018 was enacted, prosecutions were required in order to secure a restocking notice. Since April 2019 Scottish Forestry have greater powers and are able to secure the restocking of a site by issuing Restocking Directions without the need for a successful prosecution, similar to SEPA's powers on Controlled Activity Regulations (CAR) violations.

Scottish Forestry have issued 36 Restocking Directions for unauthorised felling from April 2019 to the year end 2020-21.

The Community Empowerment (Scotland) Act 2015, provides a legal framework for empowering communities, including by strengthening their voices in decisions about land that affect them; and [guidance has been published on how to do this](#). We are committed to the principles of our Land Rights and Responsibilities Statement (LRRS), which was updated last year, ensuring communities are meaningfully engaged in the development of forestry plan and proposals. Current action includes delivering on our Programme for Government commitment to enhance the existing Forestry Grant Scheme to deliver better community engagement.

Scottish Forestry recently ran a public consultation on [Future Grant Support for Forestry](#), which closed on 17 May 2023, and amongst other things sought views on how community engagement could be further improved.

We have committed to the restoration of Scotland's Atlantic Rainforest, on the west coast of Scotland, many of which are also ancient woodlands. Scottish Forestry have recently appointed a Rainforest Action Co-ordinator to lead on regeneration of these woodlands.

The current Ancient Woodland Inventory provides an excellent starting point for a National Register of Ancient Woodlands. We are working closely with NatureScot and Scottish Forestry to determine the best approach to establishing a new National Register of Ancient Woodlands.

Turning to the committee's point on the designation of ancient woodlands as Sites of Special Scientific Interest (SSSIs) or similar protected area designations, we will be giving full consideration to the sufficiency of protection for these and other habitat types, as part of our commitment to protect and ensure appropriate management for 30 per cent of Scotland's land for nature by 2030. If additional legislative

provisions appear to be required, the Natural Environment Bill will be the mechanism to improve the safeguard and management of ancient woodlands within protected areas.

I recognise that inclusive engagement with stakeholders, including with the committee and petitioners, is essential to our ongoing efforts to protect Scotland's biodiversity, and I look forward to continuing dialogue as we progress with our plans to tackle the twin crises of biodiversity loss and climate change.

I hope this response has been helpful.

Yours sincerely,

MAIRI GOUGEON